



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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07/978,239 11/18/92 BRUNKE

EXAMINER E035/1

DOMINIK, STEIN, SACCOCCIO, REESE,
COLITZ & VAN DER WALL
3030 NORTH ROCKY POINT DRIVE WEST
TAMPA, FL 33607

12M1

ART UNIT	PAPER NUMBER
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DATE MAILED: 1206

#5/B
4-14-93

NOTICE OF ALLOWABILITY

PART I

- ☒ This communication is responsive to 3-15-93
- ☒ All the claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice Of Allowance And Issue Fee Due or other appropriate communication will be sent in due course.
- ☒ The allowed claims are 1 and 4-8
- ☐ The drawings filed on _____ are acceptable.
- ☒ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☒ been received. ☐ not been received. ☐ been filed in parent application Serial No. _____, filed on _____
- ☒ Note the attached Examiner's Amendment.
- ☒ Note the attached Examiner Interview Summary Record, PTOL-413.
- ☐ Note the attached Examiner's Statement of Reasons for Allowance.
- ☒ Note the attached NOTICE OF REFERENCES CITED, PTO-892.
- ☒ Note the attached INFORMATION DISCLOSURE CITATION, PTO-1449.

PART II

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" indicated on this form. Failure to timely comply will result in the ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
- ☒ APPLICANT MUST MAKE THE DRAWING CHANGES INDICATED BELOW IN THE MANNER SET FORTH ON THE REVERSE SIDE OF THIS PAPER.
 - ☒ Drawing informalities are indicated on the NOTICE RE PATENT DRAWINGS, PTO-948, attached hereto or to Paper No. _____. CORRECTION IS REQUIRED.
 - ☐ The proposed drawing correction filed on _____ has been approved by the examiner. CORRECTION IS REQUIRED.
 - ☐ Approved drawing corrections are described by the examiner in the attached EXAMINER'S AMENDMENT. CORRECTION IS REQUIRED.
 - ☒ Formal drawings are now REQUIRED.

Any response to this letter should include in the upper right hand corner, the following information from the NOTICE OF ALLOWANCE AND ISSUE FEE DUE: ISSUE BATCH NUMBER, DATE OF THE NOTICE OF ALLOWANCE, AND SERIAL NUMBER.

Attachments:

- ☒ Examiner's Amendment
- ☒ Examiner Interview Summary Record, PTOL-413
- ☐ Reasons for Allowance
- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Citation, PTO-1449

- ☐ Notice of Informal Application, PTO-152
- ☒ Notice re Patent Drawings, PTO-948
- ☐ Listing of Bonded Draftsmen
- ☐ Other



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**NOTICE OF ALLOWANCE
AND ISSUE FEE DUE**

- ☐ Note attached communication from the Examiner
☐ This notice is issued in view of applicant's communication filed _____

SERIES CODE/SERIAL NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
07/978,239	11/18/92	006	PEABODY, J	1206 04/16/93
First Named Applicant	BRUNKE, ERNST-JOACHIM			

TITLE OF INVENTION CYCLIC ISOLONGIFOLANONE-KETALS - THEIR MANUFACTURE AND THEIR APPLICATION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
1 E035/1	549-336.000	M24	UTILITY	NO	\$1170.00	07/16/93

THE FEE DUE IS THE AMOUNT IN EFFECT AT THIS TIME. IF THE AMOUNT OF THE ISSUE FEE INCREASES PRIOR TO PAYMENT, APPLICANT WILL BE NOTIFIED OF THE BALANCE OF ISSUE FEE DUE.

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.

PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

- I. Review the SMALL ENTITY Status shown above.
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:
 - A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the patent and Trademark Office of the change in status, or
 - B. If the Status is the same, pay the FEE DUE shown above.
- II. Part B of this notice should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B should be completed and returned. If you are charging the ISSUE FEE to your deposit account, Part C of this notice should also be completed and returned.
- III. All communications regarding this application must give series code (or filing date) and serial number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to contrary.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, pay of 1/2 the FEE DUE shown above.

IMPORTANT REMINDER: Patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Art Unit 1206

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claim 1, drawn to compounds, classified in Class 549, subclass 336.

II. Claim 2, drawn to method of making, classified in Class 549, subclass 336.

III. Claim 3, drawn to method of use, classified in Class 512, subclass 12.

Claims 1 and 3 are generic to a plurality of disclosed patentably distinct species comprising those compounds defined by Formula A of claim 1. Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially

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Art Unit 1206

different process (M.P.E.P. § 806.05(f)). In the instant case the product as claimed can be obtained by oxidation of the isolongifolane-3-ol to the isolongifolane-3-one followed by reaction with aliphatic 1,2-dioles.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case the product as claimed can be used in a materially different process such as a pesticide.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Pendorf on 3-2-93 a provisional election was made with traverse to prosecute the invention of Group I, claim 1, with species elected as compound #5b (on page 7). Affirmation of this election must be made by applicant in responding to this Office action. Claims 2 and 3 withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

An Examiner's Amendment to the record appears below. Should

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Art Unit 1206

the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Mr. Pendorf on 4-14-93.

IN THE SPECIFICATION:

On page 1, line 14, delete "destinated" and insert ---destined--".

IN THE CLAIMS:

~~Cancel~~ claim 3.

Claims 1 and 4-8 are allowable over the prior art of record.

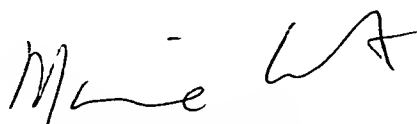
The references not relied upon by the examiner are cited to further show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Peabody III, Ph.D. whose telephone number is (703) 308-4690.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.



J.D.P. III
April 12, 1993


MARIANNE M. GINTY
SUPERVISORY PATENT EXAMINER
GROUP 120